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RUEHBP/AMEMBASSY BAMAKO 0233
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STATE FOR NEA/MAG AND NEA/PI

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SUBJECT: GENUINE EFFORTS TO CURB COUNTERFEIT IN MOROCCO?

REF: 06 CASABLANCA 883

Classified By: Principal Officer Doug Greene for reasons 1.4 (B) AND (D)

¶1. (C) SUMMARY: Difficulties encountered over the past year by the Consumer and Brand Protection Group (CBPG), a working group formed by several multi-national consumer goods companies to address the prevalence of counterfeit merchandise in Morocco, highlights the challenge of practically implementing Morocco's IPR commitments. After less than a year in existence, the group has decided it must become an official, government-backed entity in order to make headway. The group has identified a number of Moroccan laws that need to be amended, and believes that customs must assume a more proactive role in seizing fake goods. While Morocco has a decent track record on IPR and anti-counterfeit measures, the CBPG's experience suggests that continued efforts are warranted. END SUMMARY.

BRAND PROTECTION GROUP FIZZLES

¶2. (U) Multinational consumer goods companies active in Morocco estimate that they lose about USD 200 million per year as a result of counterfeiting. The problem led the companies, which include Proctor and Gamble, Bic and Nike, to come together in mid-2006 to form the Consumer and Brand Protection Group (CBPG). Initial strategies considered by the group include having an auditor do an economic impact study to estimate losses; launching awareness campaigns to help people differentiate between fake and real goods; and educating consumers about the health risks associated with certain counterfeit products.

¶3. (SBU) Since the group identified these priorities last year, however, little has been accomplished. Without formal, legal status, the group has been unable to win other converts to its cause, or to convince larger business organizations, such as The General Confederation of Enterprises of Morocco (CGEM), to lend their support to the anti-counterfeit push. In addition, hopes that the government would move to create a promised national anti-counterfeit task force have not been realized.

¶4. (SBU) The group hopes that by achieving legal status, it can

attract companies that until now have declined to join a purely private sector initiative. At present, the few companies involved do not have sufficient resources to bankroll a coordinated anti-counterfeit effort, nor do they feel they should without government buy-in.

LINK COUNTERFEIT TO TERRORISM TO ENGAGE GOM

15. (C) The CBPG had originally hoped that arguments highlighting lost jobs and tax revenue (estimated to be as much as USD 100 million) would convince the government to step up anti-counterfeiting efforts.

Ismail Chajai of P and G now believes that the best way to get the GOM to take action is to emphasize the links between organized crime, terrorism and counterfeit. If statistics on the economy and lost jobs do not motivate the GOM, Chajai believes safety and security will. Information uncovered by P and G investigators has already led him to suspect a possible connection between terrorism networks and the savvy and well-financed counterfeiters of P and G's Always brand maxi-pads.

TRADEMARK, CUSTOMS LAWS NEED TWEAKING

16. (SBU) Not only does Chajai consider government involvement key to anti-counterfeit efforts, but he also feels that existing laws need to be tweaked. Despite amendments to make Morocco's Industrial Property Law comply with the Intellectual Property Provisions of the U.S.-Morocco Free Trade Agreement (FTA), companies see practical difficulties in effectively implementing the provisions. Under the new law (31-05), implemented last year, a company has two months to register opposition to a trademark application. This puts the burden squarely on the private sector and legitimate trademark holders to protect their brands proactively. Furthermore, Chajai says it typically takes six months of haggling after a complaint is filed before OMPIC issues a recommendation. Going to a commercial court for a decision can take up to eighteen months. Such long lag times enable counterfeiters to continue producing and distributing fake goods to the detriment of the legitimate producer.

17. (SBU) Chajai also takes issue with the fact that counterfeiting is not a customs offense punishable by fines. As with trademarks, the onus is on private companies to alert customs to the possibility of an incoming counterfeit shipment. Customs then requires the alerting company to accept liability for any seized goods and associated indemnities. Such a system essentially makes companies pay to track and intercept fake goods, a pursuit that many may not be able to afford. Indeed, Chajai contends that most companies are aware that counterfeiting is a problem, but either do not know what to do about it or are not willing to put up the money to fight it.

18. (SBU) The current system for initiating seizures is problematic for other reasons as well, in Chajai's view. Companies must alert customs of an incoming counterfeit shipment in enough time to have them act. This can be challenging if they themselves are given little notice. Recently, customs failed to seize part of a shipment of All Well's, a counterfeit version of P and G's Always brand, claiming they did not receive P and G's request in time. In addition, it is important, if at all possible, for customs to intercept all parts of counterfeit shipments, since the profit margin on fake goods is often so high that counterfeiters stand to make a lot of money even if not all their shipments get through. (To cite an example, a seven-pack of All Well's costs two cents to produce and sells for eighty cents, while genuine Always costs thirty-five cents to produce and sells for a dollar twenty per package). As Chajai sees it, if customs officials were taught to detect fake products and could impose steep fines on counterfeiters, they would have greater incentive to stop illegal shipments on their own.

19. (C) COMMENT: While progress has been made in curbing counterfeiting and protecting Intellectual Property Rights (IPR) in Morocco, with improved Customs enforcement and trademark registration, CBPC's experience shows that work remains to be done to ensure that Morocco's legislation is effectively implemented. ConGen and Embassy are working jointly to support the group and to ensure its concerns are considered and addressed by relevant Ministries.

END COMMENT.

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